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MR. CHAIRMAN :—“ The question is—

‘ That under Rule 22 (3) of the Council Rules, the Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1954 (L.A. Bill No. 27 of 1954), as passed by the Assembly, with the amendments made by the Council and not agreed to by the Assembly be taken up before the Bhavanisagar Township Bill, 1954 (L.A. Bill No. 28 of 1954).’ ”

The motion was carried.

V.—GOVERNMENT BILLS.—*cont.*

- (2) THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS (AMENDMENT) BILL, 1954 (L.A. BILL NO. 27 OF 1954), AS PASSED BY THE ASSEMBLY WITH THE AMENDMENTS MADE BY THE COUNCIL AND NOT AGREED TO BY THE ASSEMBLY.

THE HON. SRI B. PARAMESWARAN :—“ Mr. Chairman, Sir, I move—

‘ That the amendments specified in the annexure being the amendments made by the Legislative Council to the Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1954 (L.A. Bill No. 27 of 1954), as passed by the Assembly and not agreed to by the Legislative Assembly be taken into reconsideration, and on such reconsideration this House do agree to the Bill as passed by the Legislative Assembly.

ANNEXURE.

- (i) In Clause 3, after sub-section (3) of the new section 2i, insert the following as sub-section (4) :—

“ (4) Nothing in this section shall be deemed to authorize any person, who is not a Hindu to enter the premises or place referred to in sub-section (1) or any part thereof.”

- (ii) In clause 10, for the brackets, letter and words “ (f) waste ”, substitute the following :—

“ (f) persistent and wilful waste.” ” ”

MR. CHAIRMAN :—“ The motion is—

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- (ii) In Clause 10, for the brackets, letter and words “ (f) waste ”, substitute the following :—

“ (f) persistent and wilful waste.” ” ”

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DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Mr. Chairman, Sir, before the discussion proceeds at any length, I wish to make a statement on behalf of the Opposition. This is the first time under the Constitution that a question of this kind has arisen and it will be well for all of us to bear in mind all the relevant issues in whatever discussion that may follow hereafter. The Constitution is quite clear on the point that when a Bill has been introduced and passed by the Legislative Assembly and referred to the Legislative Council, the Legislative Council is seized of the matter and has an opportunity to offer its opinion and also to make such suggestions as it may consider necessary and desirable for the betterment of the very purposes for which the Bill was introduced. The passing of amendments by the Legislative Council is therefore not a thing contrary to the Constitution and does not in any way connote any sort of difference or superiority complex assumed by this House in regard to measures that are being passed by the Assembly.

“ Sir, I have to make this statement because an impression has been created by the discussion that took place in the other House that probably the Legislative Council was trying to interfere with the prerogative of the Assembly. The article under which we are acting clearly mentions that it is the Legislative Assembly that is the ultimate authority for the passage of Bills and if, in the opinion of the Legislative Assembly, the amendment that has been suggested by the Legislative Council is not acceptable, the Assembly has the final voice in regard to that matter. Now we all realize that position and we all know that in this particular matter, the Legislative Assembly having passed the Bill, whatever opinion may be expressed here, the Bill as finally passed by the Assembly for the second time will become law under the circumstances. Some hon. friends may however remark: ‘ If that is the case what is the object of amendments being passed by the Legislative Council? ’ I have an answer to that and I hope my friends in the Council who participated in the debate and who pressed for the acceptance of the amendments will bear with me when I say that having passed those amendments we have certainly achieved two fundamental things. The first is, I hope and believe, we have made the Government realize that there is an opposite point of view that they must bear in mind in the working of this Act. That I think is a very good thing indeed for the Government to know. The second is, if at any time there should be any question of amendment to this Act, the opinion of the Legislative Council as expressed in these amendments will necessarily be taken into consideration. Whether it is accepted or not is another question. So in regard to these questions, I think it is right that the Legislative Council should express its opinion, unbiassed and free from any sort of mental reservation as to the sort of attitude that may be adopted by the Assembly which has undoubtedly the final voice in the matter. The Legislative Council is not intended to

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merely dot the 'i's and dash the 't's of any legislation that has been passed by the other House when it comes to this House. It is a fundamental point, therefore, that the Council should retain its right and should without any offence to the other House make its position quite clear in regard to these matters.

“ There is another matter, Sir, which I should like to place before the Government. I have already referred to it in my speech during the debate on the Budget. I wish the Government should take advantage of Article 196 with regard to legislative procedure. Except in the case of money Bills, there is provision for the Government to introduce other Bills in the Legislative Council. I do feel that at least in the case of some of these Bills, it would perhaps be better for the Government to introduce the Bills in this House first and have the discussion with the smaller number of Members, where all points of consideration will be brought to bear on the different clauses of the Bills that are introduced. I think it will be an advantage not only to the Government but also to the Council to have such a discussion. I do not suggest that where special committees may have to be constituted, it should be brought before this House. But I think all of us, whether we are in the Legislative Council or in the Legislative Assembly should try to realize that our duty is to the public of the country and there can be no question of anybody assuming a higher or lower status in regard to these matters.

“ Having said this, Sir, let me state that I do not propose to raise objections or vote against the motion that has been moved and so far as I can say, there will be very few speeches on this matter from this side except for one or two hon. Members who may have points for clarification.”

* SRI K. BHASHYAM :—“ Mr. Chairman, Sir, the position that was taken by the Hon. the Leader of the Opposition has relieved me of some embarrassment which I had, because of the support I gave to the amendment. However it is necessary for me to make my position clear when the matter has again come up before the Council for consideration. The speech made by the hon. the Leader of the Opposition suggesting that Bills which are not money Bills should come up before the Council in the first instance is the same as the appeal made by me while we considered this matter. If Bills are introduced in this House, in the first instance, the Assembly will have the advantage of having the opinions of the Members of this House, which they can take into consideration while passing legislations. I hope the Hon. the Leader of the House will take that to heart and see that at least hereafter such Bills are brought here in the first instance.

“ As regards the matter under discussion itself, I have a complaint to make against the statement made by the Hon. Mover of the Bill in the Assembly. Sir, the Assembly was told by the Hon.

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Mover of the Bill that there was already provision in the Bill in respect of this matter, namely, that Hindus only can enter the temples under the new section 21 introduced by Clause 3 of the Amending Bill of the Act. I think it is not correct to say so. That point was not made quite clear here so that Members could

11-50 understand what the point of view of Government was. I think the a.m. Hon. Mover was not quite fair in saying so, as an impression has gained ground that, as a matter of fact, the Council made the suggestion contained in the amendment without any necessity therefor. The other day I supported the amendment moved by the hon. Member Sri K. Balasubramanya Ayyar, though I belong to the party in power, as I felt the necessity for the amendment. As I said previously, now that the hon. the Leader of the Opposition has made the position clear, I am saved from embarrassment. Still, I wish to point out one important factor. The proposed section 21 (1) says, 'The Commissioner, Deputy Commissioner, Assistant Commissioner or such officers or servants of a religious institution as may be authorized by the Commissioner, Deputy Commissioner or Assistant Commissioner in this behalf, shall have power to enter the premises of any religious institution or any place of worship for the purpose of exercising any power conferred, or discharging any duty imposed, by or under this Act.' Here I wish to point out that the persons entitled to enter the premises need not be the Commissioner, Deputy Commissioner or Assistant Commissioner, as any person authorized by these officers will also be entitled to enter the premises of a religious institution. It is very necessary that we must bear this point in mind. Sir, it may be said that there is section 9, which says, 'The Commissioner, every Deputy or Assistant Commissioner and every other officer or servant appointed to carry out the purposes of this Act . . . shall be a person professing the Hindu religion . . .' This will be quite all right if only the persons employed in the department are allowed to enter the premises of a religious institution. But this is not the case. I shall presently explain that there is a certain amount of ambiguity which we must rectify. Sir, let me read the proposed section 21 (3) which says, 'In entering the premises of a religious institution or place of worship, the person authorized by or under sub-section (1) or the police officer referred to in sub-section (2) shall, if practicable, give notice to the trustee and shall have due regard to the practices and usages of the institution.' What happens if the police officer is not a Hindu? The police officer referred to here may as well read the words 'if practicable' with the words 'shall have due regard to the practice and usages of the institutions'. Though these words are meant to be read with the words 'give notice to the trustees', even some Judges may read those words with the words 'shall have due regard'. Such a contingency cannot be overlooked. That is why I have, even on a previous occasion, explained the need and

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necessity to suitably amend this clause so that there may not be any room for ambiguity. Though the principle underlying the amendment is acceptable, I do not know why the amendment itself which seeks only to clarify the position and remove ambiguities is not acceptable. I only wish to say in this connexion that if the amendment is accepted the position could be made clear and there will be no ambiguity."

* DR. V. K. JOHN :—" Mr. Chairman, Sir, I was one of those who felt gratified when this Bill was passed into law with a few amendments. Now that the Bill has come back without the Assembly's acceptance of those amendments, the hon. the Leader of the Opposition has made a statement on the floor of the House. I only wish to dwell on one or two important matters. I regret very much to state that the Hon. the Minister for Religious Endowments, who moved in the other House that the amendments passed by this House should not be accepted was not very courteous to this House. Of course, the Hon. Sri Parameswaran is incapable of being deliberately discourteous. But, he stated that it was only a snap vote that was obtained in this House and he expected the Mover of the amendments here to withdraw them."

* THE HON. SRI C. SUBRAMANIAM :—" Sir, may I know whether we can discuss the proceedings of the other House? I think we have to discuss the amendments and what exactly happened inside the other House should not be referred to on the floor of this House. I think that is the convention which we have been following."

MR. CHAIRMAN :—" A passing reference can be made though we cannot discuss what actually took place in the other House."

DR. V. K. JOHN :—" Sir, I agree there must be a convention . . . "

* SRI K. BHASHYAM :—" Even in the present case in which the amendments suggested by this House have not been accepted by the other House and have been sent back to this House, is it your ruling, that the proceedings of the other House should not be referred to here? "

MR. CHAIRMAN :—" I did not say that it should not be referred to here. I said that a passing reference can be made here though we cannot discuss the full proceedings of the other House here."

* DR. V. K. JOHN :—" Sir, I agree that we must establish certain conventions. There may be *bona fide* difference of opinion between this House and the other House. But the Hon. Minister who moved a motion in the other House that the amendments passed by this House may not be accepted by the other House

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should not have said that the amendments were carried in this House by a snap vote and that he expected the Mover of the amendments to withdraw the same."

* THE HON. SRI B. PARAMESWARAN :—" Sir, in the other House I only said that it was not proper on my part to discuss the circumstances under which these amendments were passed in the Council. I have not used the words ' snap vote ' and all that was said by the hon. the Deputy Leader of the Opposition. If he wants, he may refer to the official proceedings and see for himself what I have stated in the other House."

* DR. V. K. JOHN :—" At any rate, that is what the papers have reported."

* THE HON. SRI C. SUBRAMANIAM :—" That is the whole trouble."

* DR. V. K. JOHN :—" In the papers, it was reported that the Hon. Minister expected the amendment to be withdrawn by the Mover. So, he felt that it was only a snap vote. Whatever it is, it is good we establish certain conventions. I only wish to emphasise that the Hon. Minister who moved the motion in the other House that the amendments passed by this House should not be accepted, should have referred to this House in respectable terms.

" Sir, there must be a second convention also. The Hon. Leader of this House should have put before the other House as best as he can, the reasons which prompted this House to pass those amendments. Sir, I am very sorry I have not seen in the papers any explanation by the Hon. Leader of this House or anybody else, to the Assembly as to the reasons why this House passed those amendments."

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MR. CHAIRMAN :—" That would be improper."

* DR. V. K. JOHN :—" What I say is that somebody should have explained in the other House the reasons why the amendments were accepted here."

MR. CHAIRMAN :—" That is not necessary."

* DR. V. K. JOHN :—" In my opinion, it is necessary that the Leader of the House should mention all this in the other House."

MR. CHAIRMAN :—" I do not think that it is necessary. The hon. Member need not waste his time on this question. He may speak on the Motion before the House."

* DR. V. K. JOHN :—" I sincerely feel that the Leader of the House should represent the viewpoint of this House in the other House."

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* **THE HON. SRI M. BHAKTAVATSALAM** :—“ Sir, I appreciate the very fine sentiments expressed by the Leader of the Opposition in this matter. I entirely agree with those fine sentiments. But the hon. the Deputy Leader of the Opposition referred to certain acts of omission on my part as Leader of this House. I would like to point out in the first instance that if I am a Member of this House, I am here as a representative of the Legislative Assembly and the Legislative Assembly is my constituency. And then, if I am the Leader of the House, I am Leader of the House as a Member of the Government and I must, therefore, reflect the views and policies of the Government in the matter. The Government's attitude in this matter was that they did not accept the amendments and as you have very rightly pointed out, the Leader of the House cannot be burdened with this onerous responsibility of stating in the other House the background and the reasons that prompted the Mover of the Amendments to move and press them to a division in the Council.”

* **SRI K. BHASHYAM** :—“ Was it not possible for the Leader of the House to wait until the proceedings of this House were got ready and then take the matter before the Assembly for discussion so that that House might have had an opportunity to know the mind of the Members of this House? ”

* **THE HON. SRI M. BHAKTAVATSALAM** :—“ I do not think we should wait until the proceedings of the House are printed and placed before the Members of the Assembly. We need not wait so long before taking the matter to the Assembly.”

SRI MAHOMED USMAN :—“ Sir, while we realise the necessity for the amendment, we should not forget the most important fact that the Ministers are responsible to the Lower House. What I wish to point out is that instead of continuing this controversy, we should accept the resolution of the Government moved by the Hon. the Minister for Charitable Endowments so that the whole thing might be amicably settled and the controversy not prolonged.”

MR. CHAIRMAN :—“ Hon. Members will hereafter speak on the motion before the House.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, the question of observance of parliamentary practice has been raised and the Leader of the House has been asked why he did not do a certain thing. Sir, this is the practice obtaining in the Parliament of England. If there is a difference of opinion between the House of Commons and the House of Lords, it is not the duty of the Prime Minister to go and explain in the other House the reasons why the Government took up a particular line of argument. If the House of Lords holds an opinion contrary to that held by

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the House of Commons, it is the duty of those Members of the House of Lords who hold that opinion to go to those Members of the House of Commons who hold a similar opinion and ask them to raise the issue in the Commons and buttress their arguments. Here we are going away from sound parliamentary practice when we try to blame the Leader of the House for not having discharged a duty which is not his to discharge. I would suggest that we in the Opposition should probably get our views better known to some of the Members of the Assembly who are inclined to sympathise with our view-point and try to carry conviction through them to the other Members of the Assembly. I entirely agree with the hon. Member Sri Usman that this should not be considered a serious controversy between the Members and the Leader of the House, who have both the good of the country and the people at heart."

* DR. V. K. JOHN :—" Sir, probably the Leader of the Opposition was not aware that this Bill was passed at 5 p.m., that is, late in the afternoon and the same night it was placed before the Assembly. Under such circumstances, the Members of the other House had no opportunity to know why the amendments were accepted or how they were accepted. So, somebody in the other House should have mentioned all this, preferably the Leader of this House."

MR. CHAIRMAN :—" Discussion should be confined to the motion."

* SRI G. KRISHNAMOORTHY :—" Sir, I wish to confine myself to the amendments that have been rejected by the other House. The first amendment says :

' Nothing in this section shall be deemed to authorise any person, who is not a Hindu to enter the premises or place referred to in sub-section (1) or any part thereof '

It has been argued that there is already a provision to the effect that the usages of the Hindu temples and maths should be observed by those who enter the temples or the maths. It is not known whether the entry permitted by this law includes entry into the *sanctum sanctorum* also. Let us assume that it includes that. Now the law, as it stands and as was very rightly pointed out by the hon. Member Sri K. Bhashyam, says that in case any difficulty is experienced by any officer in securing entry, the assistance of a police officer might be sought. Naturally, as has already been submitted by the hon. Member Sri Bhashyam, a police officer in a secular State can be a Hindu and there is every probability of his being a non-Hindu also. Even that non-Hindu has got to observe the usages of that temple or math, such as, for example, the removal of shoes at the entrance, etc. There is no provision here precluding such a person from being a non-Hindu. When

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the Government thus authorise a police officer to enter the temple or math and when they really think that the entry into the temple should be in strict conformity with the usages of the institution, what harm is there in there being a redundant provision by the addition of this amendment to the Bill? After all, we are seeking to make the law clearer. We are not so illiberal in the year 1954 as to say that our sisters and brothers of other religions should not enter such institutions. Articles 25 and 26 of the Constitution very clearly say that the Government can interfere only in cases of mismanagement of the institutions on the secular, economic and political sides. It is a private right conferred on the Hindus by the Constitution. Even in the case of our own houses, we have our own rights. Because the neighbour is our own friend, it does not mean that he can enter our premises without our permission at all hours. That he is our friend, is, therefore, a different matter. Entry is a private affair and we can allow him entry or deny him entry into our house. So, also, by use and convention, the Hindu religious denominations observe certain things. Even in the year 1954, under the authority of Articles 25 and 26, the Hindus as a whole, have the right to say that certain people should not enter their institutions under certain conditions. So, it is not on account of any illiberal motive in these liberal days that the Hindus say that this is a right conferred on them and exercised by them for generations. There is no harm in the provision being redundant, especially when it is capable of avoiding future litigation.

“ Coming to the second amendment, the term ‘ waste ’ is sought to be changed into ‘ persistent and wilful waste ’. It was very rightly pointed out by the hon. Member, Sri K. Bhashyam, the other day that ‘ waste ’ is a thing which cannot be defined easily. He just instanced the case of a madathipati presenting a shawl to some person and the Commissioner viewing it as a waste. That is the reason why we tried to keep the words ‘ persistent and wilful ’ in the provision. We want the administration of temples and maths to run smoothly. The madathipati has got his own right. He can just do certain things in the interests of the math. What is considered to be in the interests of the math by the madathipati may not be considered to be so by the Commissioner. What is considered waste by somebody need not be considered so by somebody else. What is ‘ necessity ’ for one might be a waste for others for all conscientious purposes. So it is better to be clear in law. These maths and temples were established not to be mere religious institutions but as centres to spread good social conduct and behaviour. The renovation of a particular math may help so many people in the field of arts, crafts and literature. The presentation of a shawl may help someone in the field of learning.

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p.m. " Now the engagement of, say, a piper or a drummer may just help to promote art. But these things may just appear to be luxurious in the eyes of the Commissioner. Therefore only in order to prevent any clash of views between the Commissioner and the religious head, who has been held in glory for the past thousands and thousands of years we have made a provision like the present one. Is there not a possibility and will there be not an occasion when a conflict may arise between the religious head and the Commissioner as to what is a waste, what is a necessity and whether what has been done for the sake of furthering the advancement of a religious institution by the religious head is a necessity or waste? We say there should be some sort of correspondence between the Commissioner and the head of the religious institution as to whether a thing which is considered a necessity by the religious institution is a necessity or waste. Even in spite of the instructions or advice of the Commissioner saying that a particular thing is a waste and that such sort of waste should not occur, if the head of the religious institution wilfully allows that waste, then we say that upon that 'wilful waste' the Commissioner can take action and can go to a Court of law and establish his case to remove the head of the institution. Some allowance should be given for the head of the religious institution to prove that the expenditure he has incurred with reference to a particular thing is not a waste. He must be given an opportunity to convince the Commissioner of the Hindu Religious Endowments that the expenditure he has incurred is not a waste. Only when the head of the religious institution wilfully flouts the Commissioner's words, should action be taken against him. That is why the present amendment, wherein it is stipulated that only when 'wilful and persistent waste' is proved, could action be taken against the concerned, is a correct one.

" In view of what I have stated I am convinced that hon. Members of this House will stand by the amendments and not go back."

* SRI A. M. ALLAPICHAJ :—" Mr. Chairman, Sir, it is very difficult and also sometimes very unpleasant especially when we have to differ very strongly with men who are really very cultured and very much experienced.

" Sir, we are now governed by our Constitution. The Constitution of India is our Bible. Under the Constitution the dignity of man is established. Every Indian, whether a Muslim, Hindu, Christian or Jew, whoever he may be, to whatever class or following he may belong, under the Constitution, he is treated as a pure man and a good man. My learned Friends have also to realize that under our Constitution, untouchability has been abolished—not only untouchability of Harijans but untouchability in whatever

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form it may exist. You might have been aware, Sir, that some years back, before the advent of our Independence, people were crying in railway platforms 'Hindu Pani, Muslim Pani' and things like that. All these disgusting features have been abolished by our Constitution.

"This amendment even though it may appear to be simple in form is not really simple. It is a dangerous innovation. In the Preamble to our Constitution, it is said:

'We, the people of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic, and to secure to all the citizens justice, Fraternity assuring the dignity of the individual and the unity of the Nation.'

I am not very particular whether non-Hindus are permitted to enter Hindu temples or not. That is not the question with which I am concerned. Our Constitution says every Indian, be he a Muslim or Hindu is a pure man. Ours is a secular State. The only thing we have to remember is that it is the duty of every Indian to respect the religious sentiments of his brethren. I am a Mussalman. It is my duty to respect the sentiments of my Hindu brother; I must respect his customs and manners. In the same way it is the duty of my Hindu brother to respect the customs the manners and the religion of Muslims. That is the idea, the spirit and the real object of our Constitution. When that is the broad principle on which our Constitution is based, my friend comes and says 'Non-Hindus should not enter Hindu temples'. What is the idea behind it? Perhaps the idea is that non-Hindus are untouchables and because they are untouchables they should not enter Hindu temples. That sort of untouchability should go.

"We have attained freedom. That freedom is there to establish the dignity of man. That dignity of man should not in any way be affected. Therefore the amendment should not be accepted. The only thing that a Muslim or Christian has to do whenever he enters a Hindu temple, is to remove his shoe and clean his feet and then enter the temple. But to say that because he is a Muslim or a Christian he should not enter a Hindu temple, is forgetting the dignity of the individual guaranteed by our Constitution.

"With these words I resume my seat."

SRI MOHAMED RAZA KHAN:—"Mr. Chairman, Sir, it has always been my principle that on matters pertaining to the interests of a particular community it is much better that we do not talk. Some of my friends, viz., the Hon. Sri Parameswaran, the Hon. Sri M. Bhaktavatsalam, the Hon. the Raja of Ramnad and the Hon. the Chief Minister, may be aware that we, the Muslim members, decided even during the discussion in the last Assembly that inasmuch as almost all the Muslim members were in the Opposition it would be much better if we did not

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participate in a discussion wherein the interests of a particular community were discussed. We arrived at that decision because whatever one of us might say, even though it might be with the best of intentions and with a sincere motive, it was very likely to be misunderstood and misinterpreted. Therefore it is a wholesome principle and I still value it and maintain that we should not talk on this particular point.

"I quite appreciate the sentiments expressed by my hon. Friend, Sri Allapichai. But Sri Allapichai should not forget the other side of the picture. Facts are facts. We cannot ignore them. May be after twenty or twenty-five years, views may get changed and what Sri Allapichai visualises to-day may happen then. But to-day when we have before us a Bill, we have got to face the facts. I should like to say on behalf of the Opposition and also two or three members on the other side, who even though they belonged to the Congress side voted for the amendment—there was no breach of discipline in what they did—and that we appreciate the amendment that has been passed by this House. It may be the right of every individual to do what he feels. I do not question that. But I say that the passing of the amendment is what even a Muslim or Christian would like. Surely a Muslim or Christian officer would not like to place himself in the embarrassing position of an inspecting officer of a temple and that too a Hindu temple, when the possibility is there that whatever he might do might be misconstrued by the large mass of the Hindu community. We have got to face the facts and the realities of the situation. Sometimes what even a single Muslim might say would affect the entire community. The picture is all the more aggravating when a Muslim or Christian has got to say anything against a Hindu temple. That is why I say in the interests of the non-Muslims themselves it is better that the amendment is there which says only Hindus can enter the temples as inspecting officers. I say it is a very wholesome and good principle that only Hindus and no non-Hindus are allowed to enter the *sanctum sanctorum*. They, the Hindus have got their own religious motives and they are quite correct in trying to maintain those principles which they hold dear to their hearts.

"The hon. Member, Sri Allapichai, says that there should not be any discrimination between a Hindu and non-Hindu in the matter of inspecting officers. But Sri Allapichai should know that the Act itself contains a discriminating provision that only a Hindu could be the Commissioner for Hindu Religious Endowments. No Muslim could be a Commissioner. I am a Muslim. Of course I am not going in for jobs now. But I would very much appreciate if the Hon. Minister for Religious Endowments or the Hon. the Chief Minister could now bring in an amendment allowing a

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Muslim to be a Commissioner, so that there will be a possibility of my aspiring for it sometime later (Laughter). But that cannot be."

SRI K. BALASUBRAMANYA AYYAR :—" A Muslim can be the Minister in charge of the Hindu Religious Endowments." 12-20 P.m.

SRI MOHAMED RAZA KHAN :—" The Act contains a provision that the Commissioner, Deputy or Assistant Commissioner and every other officer shall be a person professing the Hindu religion. That provision embodies a very good principle. In a matter like entry into a Hindu temple, particularly into the *sanctum sanctorum*, it is good that that principle is strictly observed.

" To-day's discussion here both on the Government side and on the Opposition side has been of a very high level and I hope this instance will be quoted as a precedent whenever occasion arises. There is no clash of interest between the Assembly and the Council. We know the difficulties and our responsibilities. We did what we honestly felt to be right in making the amendments. I do not like to say anything against the Hon. Sri B. Parameswaran. After all, he did his best to pilot the Bill. It would have been all right if the Minister had simply told the other House 'Here are two amendments which the Legislative Council thought necessary and passed. It is for you to do what you like with them' and stopped there. But, according to Press reports, he seems to have added that the amendments were carried by a snap vote. But the Minister denied having made any such statement. If really the Madras newspapers have become so defective that they always report incorrectly the Minister's speech, I accept that position! But I know that the Madras newspapers have earned a reputation all over India for good reporting and they have no reason to ascribe to the Minister something which he did not say. The Minister seems to have pointed out also that there was no need for the first amendment at all because the proposed section 21 (3) contained the substance of that amendment. This amounts to saying that the Council has done something which is either superfluous or unnecessary. My objection is to the Minister making such a statement who, though he is a Member of the Assembly, participates in the discussions in the House in his capacity as Minister. Apart from this, I take strong objection to a Bill which was passed by this House at about 5 p.m. being sent up for consideration by the other House which was convened to meet at 10 p.m. that very day."

THE HON. SRI M. BHAKTAVATSALAM—" It is for the Assembly to have raised this objection. It is not for this House to raise that kind of objection."

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SRI MOHAMED RAZA KHAN :—“ The Hon. the Leader of the House said that he was speaking as a representative of the Assembly. I as a representative of the Assembly, am also saying that the Assembly was not given enough time to have an idea of what transpired in this Council.

“ Whatever has happened has happened. In future at least we should set up a convention and see that such instances do not occur. Our object also is to help the Government and see that the Bills, when they emerge from this House, are as perfect as possible. Defects have been found out in the course of the working of several Acts or have been pointed out by the Courts. Our object is to see that the Bills are made as perfect as possible so that there may not be any need for amendment in future.”

* SRI T. M. NARAYANASWAMY PILLAI :—“ Sir, Mr. Allapichai has raised a difficulty. He wants the omission of the amendment passed by the Council so that even non-Hindus may be allowed to enter the premises of Hindu religious institutions, including the *sanctum sanctorum* and he relied for his position on Article 17 of the Constitution. In his view, if the amendments passed by the Council were omitted, non-Hindus would have a right under Article 17 to enter the premises of Hindu religious institutions, including the *sanctum sanctorum*. That Article says that untouchability is abolished. I think that untouchability exists only among the Hindus. The question now at issue is not between Hindus and Hindus but between Hindus and non-Hindus. Article 17 does not confer any right on non-Hindus to enter the premises of a Hindu religious institution, especially the *sanctum sanctorum* which is considered sacred by the Hindus. The Articles which govern this matter are Articles 25 and 26. Besides the other fundamental rights conferred by the Constitution, there is also the fundamental right of freedom of conscience and religion and freedom for every religion to manage its own affairs in the manner thought suitable and proper by the followers of that religion. Articles 25 and 26 read as follows :—

‘ 25. (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

‘ (2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law,

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice,

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

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‘ 26. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes ;

(b) to manage its own affairs in matters of religion ;

(c) to administer such property in accordance with law.’

From this it is clear that even if the amendment passed by the Council is omitted and the Bill passed, the Bill casting a disability on non-Hindus to enter the premises of Hindu religious institutions or the *sanctum sanctorum* thereof is perfectly valid under the Constitution. The Hindu Law relating to religion does not entitle non-Hindus to the right claimed by the hon. Member, Sri Allapichai. This right of the Hindus is protected by Articles 25 and 26. Thus with regard to the section as it stands, i.e., without the amendment under discussion, it would appear that the right interpretation would be that no non-Hindu should be allowed access to the premises of a Hindu religious institution. Article 17 has no connexion with the subject-matter covered by the amendment passed by the Council.

“ My hon. Friend, Sri G. Krishnamoorthy, has raised a big issue over this modest Bill. He has given expression to the view that the Commissioner is going to rule over or tyrannise the madathipatis who have been held sacred for thousands of years. Nothing can be farther from the truth. I feel that there is a persistent attempt or desire to misunderstand the scope of this Bill. Even without this amending Bill, madathipatis can be interfered with, if they in violation of their obligation transgress the limits and misbehave. This Bill does not introduce anything new. If we compare the present legislation with the provisions of the Act of 1926, we will find that the present legislation is not much more stringent than the Act of 1926. In 1946, a Committee was appointed to go into this matter. I was a member of that Committee and Sri R. V. Krishna Ayyar also was a member. The provisions of this Bill relating to madathipatis are very much less stringent than the recommendations made by that Committee whose recommendations have been passed into law in 1946. The members of that Committee might be said to have been as pious, as anxious and zealous to maintain the prestige of madathipatis as the hon. Member, Sri Krishnamoorthy, is. If certain restrictions were considered necessary, it was not because the members did not respect the madathipatis or realized their sanctity, but because they considered them necessary in the interests of the continuance of the observance of the religious practices. When the provisions of the present Bill are very much less stringent than the provisions actually on the Statute Book, I fail to understand the argument that this Bill is brought forward for the first time to interfere with religious practices. We

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are only enacting what has been in existence from 1925 and what has been enshrined in the decision of Courts. There are cases where madathipatis have been removed unceremoniously. A madathipati has been removed by a judgment delivered by Dr. M. R. Jayakar.

2-30 p.m. “ That judgment was under section 92 of the Civil Procedure Code; the section in the present Act is 58 which corresponds to section 73 of the old Hindu Religious Endowments Act which gave those powers. So it is not a question whether we are really making an illegal encroachment. But the question is whether it is expedient or desirable in the circumstances. There are no doubt two views. One view is that there should be no interference with the madathipatis because they are something sacred. On the other side, the Commissioner comes and says ‘ Here are abuses which have resulted in waste and misappropriation. These institutions merely exist for glorification and do not at all advance the purposes for which they exist ’. Between these two views, the Legislature has taken a very reasonable and modest view, that is the view sanctioned by the highest judicial Tribunal as enunciated in the Shirur Math case. What is now required is wholesale co-operation with the Government to carry out the good purpose of the Act and not to create obstacles in the way of our realizing the ideal. Now regarding the amendment, viz., introducing the words ‘ persistent, wilful and continuous ’, I do not want that the words ‘ persistent and wilful ’ should be added to the expression ‘ waste ’. The word ‘ waste ’ is a legal expression. Even if we say ‘ persistent and wilful waste ’, what is not a waste cannot become a waste. If it is a waste, notwithstanding our saying ‘ persistent and wilful ’, it is a waste calling for action by the Council. If there is any confusion, I will make the point clear. I shall approach the question from the standpoint put forward by one hon. Member. The presentation of shawls to learned Pandits on the occasion of a religious discourse can never be a waste. He must be a mad Commissioner who thinks it is a waste. There was never a mad Commissioner in our State. So, let not such questions deter us from considering the question in the manner in which it ought to be done. The presentation of any number of shawls to learned Pandits cannot confer any jurisdiction on the Commissioner or entitle him to remove the madathipati or pass any order as he likes. In this connexion, I am reminded of some observations made by the hon. Member, Sri K. Bhashyam. He thought that the Department should not be for the glory of the Commissioner.”

SRI K. BHASHYAM :—“ You are using your own words! ”

SRI T. M. NARAYANASWAMY PILLAI :—“ Sir, I prefer to use the words of the hon. Member himself. He said ‘ What is the use of this Department if a Commissioner is able to enter into the temple with hat, boots and so on ’ ? ”

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* SRI K. BHASHYAM :—“ One word of explanation, Sir. I never said anything about the Commissioner. I only referred to the officers lower down.”

* SRI T. M. NARAYANASWAMY PILLAI :—“ Sir, if the subordinate officers commit such small misdemeanours, the remedy is there. They can be easily removed. Therefore, nothing can be said against the department. The only question is whether this department has achieved something since it came into existence or whether it has undermined or violated the spirit of the religion. Has it not contributed to the promotion of religion and the charitable instincts of the people? My hon Friend himself will agree with me that there has been tangible improvement. I am not going to say more. Even if hon. Members are not agreeing with me, I can say that there has been no retrograde movement. There has been continuous progress, very halting no doubt but at the same time steady. The administration reports of the last 20 or 25 years will amply bear out my statement. But, what is the alternative? Can the alternative be that we remove this statute and allow these institutions to administer themselves without any control? Will that be conducive to the benefit of the public? Will that be conducive to the welfare of our people? Well, what is our previous experience? In 1842, the Government withdrew the religious control. From 1817 to 1842 there was the old regulation passed by the Government and even persons like Sir T. Muthuswami Ayyar thought that it was the most beneficent reform. It was that which prevented waste and misappropriation. It was that which has endeared the Government to the people. From 1842 to 1863 there was nothing. In the course of those 21 years, the whole properties of these institutions were wasted and misappropriated. There was then an all-out-cry, even from those who were against control, for some enactment. Then the Act of 1863 was passed. It was found inadequate in certain aspects. I could re-call to my mind so many Bills, the Bills suggested by Sir Muthuswami Ayyar, Sri Rama Ayyangar, etc. Everybody wanted the constitution of some authority to control, regulate and administer these institutions. Behind the Bill of 1927 was the brain of Sir N. Gopalaswami Ayyangar. He was then the Secretary of the Department. So that is the history of the legislation. But now to come and say that this has worked havoc or it interferes with the rights of the madathipatis is a thing which I cannot understand. As I said earlier, I am religious and I claim to be religious. I may be wrong and I may be at fault. Though towards the religious institutions and the madathipathis, I adopt a very pious attitude, it is my earnest desire that they should be brought into line with the progressive spirit of the times and they should play their part in remodelling our society in accordance with the provisions of the Constitution and in accordance with the fundamental rights, viz., equality, justice, etc. Can we allow these madathipatis to remain as isolated agents unconnected with public

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life and unconnected with society? Should they not follow within their limits the ways the missionaries are doing? They should come into contact with the public and try to reform them, purify them, elevate them, ennoble and sublimate them too. That is my anxiety. I again appeal that there should be the utmost co-operation from all so far as the administration of these institutions is concerned. If there are any defects, they will get themselves cured. My anxiety is that religion should occupy its proper place. Therefore, I have no serious objection to the amendments."

* SRI K. BHASHYAM :—" Sir, one word by way of personal explanation. Of course, in my speech I did say that some officers did not conform to the usages and customs of the institution. I have seen this with my own eyes. I even represented to the Commissioner. I never meant that the Commissioner was doing like that. He has got more sense than that. Persons in charge of maths or Executive Officers do not conform to the usage obtaining in the institution. I also pointed out to the Commissioner that as a matter of fact these people have gone beyond the usages and customs of the institutions. It is only to induce a spirit of piety that I wanted to impress this fact. But I do take strong objection to certain provisions which unduly interfere with persons who are heads of maths. I do maintain it even to-day in spite of all that has been said."

12-40 SRI V. CHAKKARAI CHETTY :—" Mr. Chairman, Sir, I
P.m. heartily concur with the amendment which says—

' Nothing in this section shall be deemed to authorize any person, who is not a Hindu to enter the premises or place referred to in sub-section (1) or any part thereof.'

This amendment wants that non-Hindus should not be allowed into the temples. I accept it not because it is favourable to Hindus but it is also in conformity with the views of many non-Hindus. There are many Christians who refuse to enter the temple for the reason that they have to remove their shoes and offer worship with bended knees. Once my Hindu friends had me forcibly taken to a temple although I had been unwilling to go there. They said that though I was a Christian I could go and see the temple and they took me to the *sanctum sanctorum*. I do not know why they have used that Latin expression which applied to certain institutions which existed many thousands of years ago. The Jewish temple which used to be called Holy of Holies is expressed by that Latin term '*sanctum sanctorum*'. Perhaps that expression was used by a non-English knowing Judge. Sir, as far as Christians are concerned, they do not want to enter a temple or look upon an idol and therefore, it seems to me that it is right that non-Hindus should not be allowed to enter the temple which is sought to be provided in the amendment."

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* THE HON. SRI B. PARĀMESWARAN :—“ Mr. Chairman, Sir, after hearing the most dignified and reasonable speech made by the hon. the Leader of the Opposition, I thought that the discussion on this Bill would be over within a few minutes but unfortunately the speeches made by my hon. Friends Dr. V. K. John and Sri Raza Khan have prolonged the discussion and several hon. Members spoke on the importance of the amendments. Sir, with regard to the general observations made, I want to say that only one point is not quite clear. I did not cast any aspersion on any hon. Member of this House when I spoke nothing but the truth. When the discussion on the amendments were going on and when I actually explained the position, the hon. Member Sri K. Balasubramanya Ayyar wanted me to see that at least the spirit of the amendments was carried out at the time of framing the rules and he was quite willing to accept my explanation. As a matter of fact, I think, he used the words ‘ I am prepared to withdraw ’. It was only when the hon. Member Sri K. Bhashyam got up and said, ‘ Why do you want to withdraw your amendments, and is it because they will have to go to the Lower House for approval? ’, that Mr. Balasubramanya Ayyar pressed his amendments to the vote of the House. (Interruption from the Hon. Sri C. Subramaniam.) Since my Colleague says that I need not go into the question, I do not want to refer to it any more. But I want to refer to one other matter only. To the charge that I have not correctly interpreted the decisions of this House, I must only say that the very division in this House on these amendments is quite sufficient to prove that there was a difference of opinion here itself. It was only as a result of the difference of opinion that there was a division.

“ As regards the introduction of section 21 (3) in this Bill, I have already explained the position and I do not want to say anything further in respect of this matter. With regard to the other amendment, I do not see any reason why the words ‘ persistent and wilful ’ should be added in clause 10. I have nothing more to say on this matter and I request that the Bill may be passed into law.”

MR. CHAIRMAN :—“ The question is—

‘ That the amendments specified in the annexure being the amendments made by the Legislative Council to the Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1954 (L.A. Bill No. 27 of 1954), as passed by the Assembly and not agreed to by the Legislative Assembly be taken into reconsideration and on such reconsideration this House do agree to the Bill as passed by the Legislative Assembly.

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ANNEXURE.

(i) In clause 3, *after* sub-section (3) of new section 21, *insert* the following as sub-section (4) :—

“(4) Nothing in this section shall be deemed to authorize any person, who is not a Hindu to enter the premises or place referred to in sub-section (1) or any part thereof.”

(ii) In clause 10 *for* the brackets, letter and word “(f) waste”, *substitute* the following :—

“(f) persistent and wilful waste”.”

The motion was carried.

(3) THE BHAVANISAGAR TOWNSHIP BILL, 1954 (L.A. BILL No. 28 OF 1954).

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—“ Mr. Chairman, Sir, I move—

‘ *That the Bhavanisagar Township Bill* * 1954 (L.A. Bill No. 28 of 1954), *as passed by the Assembly, be taken into consideration.*’

Sir, the House is probably aware that the Lower Bhavani Project in the Coimbatore district is nearing completion. The project estimates are expected to be closed by February 1955. For the execution of this project, a large number of staff had to be employed and they had to be stationed at Bhavanisagar, and many buildings were constructed for the purpose. A colony thus sprang up at Bhavanisagar Headworks in course of time. The colony consists almost entirely of departmental staff, job workers and labourers employed on the execution of the Lower Bhavani Project. The sanitation, health, water-supply, housing, lighting and roads in the colony have been provided by the Public Works Department and the administration of the colony is now in the hands of the Executive Engineer, Lower Bhavani Project Headworks.

“ The question of utilizing the buildings and quarters that would become surplus to the requirements of the Public Works Department, when the project is completed, is separately engaging the attention of the Government. Whatever use the vacant buildings may be put to, there will still be a large number of people residing in the colony for whose benefit some sort of local administrative body would be necessary. The area is at present under the jurisdiction of two panchayat boards, and it will not be desirable to have the administration of the colony under such dual control. Moreover, many of the buildings are likely to be in the occupation of Government departments and Government staff and it is rather unnecessary and inappropriate that a Government colony consisting almost entirely of Government land and property should be under the administration of a panchayat or panchayats especially in the